

Arizona State Board of Homeopathic Medical Examiners
Minutes of Regular Meeting
March 14, 2006

I. CALL TO ORDER AND ROLL CALL

Presiding officer, Dr. Charles Schwengel, called the meeting to order at 9:00 a.m.

ROLL CALL

Present:

Charles Schwengel, DO, MD(H)
Annemarie Welch, MD, MD(H)
Don Farris
Garry Gordon, MD, DO, MD(H)
Todd Rowe, MD, MD(H)

Absent:

Kathy Patrick

Elizabeth Miles, Assistant Attorney General, Christine Springer, Executive Director and members of the public were also present.

II. REVIEW/APPROVAL OF MINUTES

Dr. Rowe made the motion to approve the January 10, 2006 regular meeting minutes. Mr. Farris seconded the motion that passed unanimously.

Note: There were no executive session minutes for the January 10, 2006 meeting.

III. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS

Previous Applications

Arlene Martone M.D. – request to withdraw application
Dr. Rowe recused himself from the consideration of this agenda item.
Dr. Gordon reviewed Dr. Martone's request to withdraw her pending application and made a motion approving her request. Mr. Farris seconded the motion that passed with a majority vote.

IV. REVIEW, CONSIDERATION AND ACTION REGARDING INVESTIGATIONS/COMPLAINTS

Initial Reviews

05-18 T.F. vs. Pamela Morford MD, MD(H)

Dr. Pamela Morford and her attorney, Cynthia Cheney, were present by telephone for the discussion of this matter. Dr. Morford made a statement to the board and noted that the Arizona Medical Board had completed their review and dismissed the matter on September 30, 2005.

Dr. Schwengel questioned Dr. Morford about the status of her allopathic medical license. She replied that the license is still active with one pending complaint and a previous consent agreement still in effect. Dr. Schwengel reviewed T.F.'s

allegations. Dr. Morford also responded to questions about T.F.'s recent fraud indictment in Pima County.

Dr. Rowe indicated that Dr. Morford's response to T.F.'s allegations had been very thorough and noted the transcript of the Arizona Medical Board interview had been quite detailed as well. He inquired about her ongoing recovery from surgery and current pain management regimen. Dr. Morford stated that she is recovering and does not have plans to resume practice at this time.

Dr. Welch commented that her review of the documentation did not support the allegations made by T.F. and made a motion to dismiss the complaint. Dr. Gordon seconded the motion that passed unanimously.

Vote: 5-0

06-07 Warren Levin MD(H) Self Report pursuant to A.R.S. §32-2933(18)

Assistant Attorney General Miles commented that the board's review of this matter should be limited to whether any of the modalities alleged to have been utilized by Dr. Levin in Connecticut would have violated A.R.S. §32-2901 *et seq.*

Dr. Gordon commented that no hearing had been held in Connecticut regarding the allegations and Dr. Levin and Connecticut had consented to allowing his allopathic license to lapse in that state. He also pointed out that the list of modalities alleged by Connecticut to have been utilized by Dr. Levin and elaborated in the consent agreement are defined as part of the practice of homeopathic medicine under A.R.S. §32-2901(22).

Dr. Welch stated that she could find no violation of Arizona homeopathic law and made a motion to close the review and take no action. Dr. Gordon seconded the motion that passed unanimously.

Vote: 5-0

06-08 Terry Grossman, MD, MD(H) Self Report pursuant to A.R.S. §32-2933(18)

Dr. Schwengel reviewed the information reported by Dr. Grossman on his 2006 license renewal form. The board noted that Dr. Grossman had received a letter of admonishment from the Colorado Medical Board for not properly delegating and supervising the provision of medical services by a medical assistant.

Dr. Rowe made a motion to issue a non disciplinary letter of concern. He stated that if the practice had occurred in Arizona it may have led to a violation of Arizona homeopathic law relating to the supervision of homeopathic medical assistants. Dr. Welch seconded the motion.

In the discussion that followed, Dr. Welch and Dr. Gordon both agreed that there was cause for concern in that had the action occurred in Arizona there may have been a violation of A.R.S. §32-2933(34). This law states that failing to appropriately direct, collaborate with or supervise a licensed, certified or registered health care provider, a homeopathic medical assistant or office personnel

employed or assigned to the physician to assist in the medical care of patients is an act of unprofessional conduct.

Assistant Attorney General Miles responded to a question from Mr. Farris regarding what steps the board would take should they wish to consider additional action.

There was no further discussion on this item. Dr. Rowe's motion to issue a letter of concern passed unanimously.

Vote: 5 – 0

** At 10:05 the board took a ten minute break**

06-11 K.F. vs. Charles Schwengel DO, MD(H)

Dr. Schwengel was recused from consideration of this matter. Dr. Welch chaired the discussion of this agenda item.

K.F. was present and made a statement regarding her complaint, and ask the Board to take action. She expressed strong objection to the content of a letter that had been drafted for Dr. Schwengel's signature and subsequently mailed in response to her earlier letter to a Health Committee of Reference member. K.F. urged the board to consider action against Dr. Schwengel for what she alleged to be inaccurate and unethical representations about her that had been expressed within the letter.

Dr. Schwengel was granted time to make a statement. He noted that the letter in question was drafted by the executive director under his signature as board representative and was sent to the legislative committee at their request . The letter responded to allegations made about the board by K.F.

K.F. was invited to make an additional statement. In particular she noted that the letter indicated she had been censured by the medical board and that other complaints against her had been cast in a negative light and that inaccurate statements were made regarding her allopathic license.

Dr. Schwengel made a further statement and expressed that the letter may have contained an error in reference to a medical board case in which it was stated she received a censure rather than a letter of concern. He apologized to K.F. for any inaccuracy.

K.F. urged the board to rectify their mistake by writing a follow-up letter to the legislative members to explain any inaccurate characterizations of the action taken by the medical board against her license.

At 10:30 a.m. the board adjourned to executive session for legal advice. The motion was made by Dr. Rowe, seconded by Mr. Farris and passed with a majority vote. The board returned to the regular session at 10:55 a.m.

Dr. Welch stated the question before the board was to determine jurisdiction in the complaint review. Dr. Rowe moved to cede primary jurisdiction to the Board of Osteopathic Examiners. The motion also included a request that the executive director review the correspondence sent to the Joint Committee of Reference and determine if the board provided inaccurate information regarding K.F.. He requested a status update of the review at the next regular meeting and indicated that the status update would not be a part of the pending complaint. Motion seconded by Mr. Farris and passed with a majority vote.

Vote: 4-0 . Schwengel recused

06-12 R.W. vs. David Korn, DO, MD(H)

Note: Dr. Schwengel rejoined the Board to serve as the chairman during the consideration of this agenda item.

Dr. Korn and his attorney, Stephen Myers, were present during the discussion. The Board invited Mr. Myers to make a statement. Mr. Myers urged the board to request primary jurisdiction from the Osteopathic Medical Board. He stated that the record would show that R.W. had specifically come to Dr. Korn for IV peroxide therapy treatments and that the provision of this type of therapy was directly related to the practice of homeopathic medicine.

Dr. Korn also made a statement indicating that he concurred with Mr. Myers statements and that the therapy provided to R.W. was specifically related to the practice of homeopathic medicine.

Dr. Gordon made a motion directing that the board should request primary jurisdiction from the Osteopathic Board. His motion was seconded by Dr. Rowe and passed unanimously.

Vote: 5-0

Ongoing Reviews

05-21 Charles Crosby DO, MD(H) – Status Report

Dr. Rowe presented a status report indicating that he had reviewed resumes of psychologists submitted by Dr. Crosby and that Dr. Thomas Guest had been selected as the most qualified to perform an evaluation.

V. RULES, LEGISLATION, SUBSTANTIVE POLICY STATEMENTS

1. Mrs. Springer reported that HB2282 (two year Board continuation bill) had successfully passed the House and Senate and would be sent for the Governor's signature.
2. Dr. Gordon discussed SB1084, an omnibus bill related to duties of the Arizona Medical Board executive director and rules for disciplinary action for health professionals. He urged the board to consider the changes relative to the forms of discipline or non discipline that could also be incorporated into the statutes applicable to the Homeopathic Board. In particular, the board's attention was

directed to a proposed change that would allow the board to require continuing education as an alternative to formal disciplinary action.

VI. REVIEW, CONSIDERATION, and ACTION ON PROFESSIONAL BUSINESS

1. The board adjourned to executive session at 11:10 a.m. for legal advice regarding an issue relative to board member recusal prior to considering Dr. Murray Susser's informed consent for chelation therapy. The motion was made by Dr. Welch, seconded by Mr. Farris and passed unanimously. They returned to the regular session at 11:15 a.m. Dr. Schwengel recused himself and Dr. Welch chaired the discussion. Dr. Gordon stated that the informed consent did not meet board standards and directed the executive director to inform Dr. Susser of the current requirements. He directed Dr. Susser's attention to ACAM official protocols relative to the age, weight and renal function of the patient.
2. The board noted Dr. Grout's correspondence regarding ultraviolet blood irradiation, ozone saturated autologous transfusion and evoked photon capture in reference to *AAC R4-38-109, Experimental Forms of Diagnosis and Treatment*. Dr. Gordon stated his request that Dr. Grout inform the board of the status of her Institutional Review Board application.
3. Dr. Gordon reviewed Dr. Gary Page's informed consent and protocol for chelation therapy. He noted the protocol was correct but asked that Dr. Page include additional language relative to informing a patient that chelation therapy does not remove arterial plaque.
4. The board reviewed Dr. Lodi's protocol for paracentesis. Dr. Welch stated that the procedure involves placing a needle into a body cavity, but does not enter an organ as referenced in ARS §32-2901(17). Dr. Gordon made a motion, seconded by Dr. Rowe that the board's review of the statute leads them to conclude that the procedure falls within the definition of minor surgery. Motion passed unanimously.

VII. REVIEW, DISCUSS AND ACTION REGARDING OTHER BUSINESS

Mrs. Springer gave a short update regarding renewal and indicated that the board had received 103 out of 116 possible renewals. Licensees have until April 30 to renew and at that time the license would expire if fees had not been paid.

VIII. FUTURE AGENDA ITEMS

- 1) renewal deadlines relative to medical assistant registrations
- 2) future changes to laws governing homeopathic physicians
- 3) board member attendance

IX. CALL TO THE PUBLIC

Carey Smith addressed the board relative to a closed complaint filed against Karen Sontag. She urged the board to reconsider the matter and stated that they had received inaccurate information.

J.D. Smith addressed the board about the same matter and made a statement relative to the Karen Sontag matter.

The Board thanked Mr. and Mrs. Smith.

X. ESTABLISHMENT OF FUTURE MEETING DATES

None

XI. CLOSE OF BUSINESS/ADJOURNMENT

The meeting adjourned at 12:15 p.m. following a motion by Dr Gordon. The motion was seconded by Dr. Welch and passed unanimously. The next Regular Meeting of the Board will convene at the State Board's Offices, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on **May 9, 2006.**

Respectfully Submitted,

Christine Springer
Executive Director

Approved at regular meeting of 5-9-06 with amendments